



Oregon

Kate Brown, Governor

Public Employees Retirement System

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TO: Members of the PERS Board
FROM: Stephanie Vaughn, Manager, Policy Analysis & Compliance Section
SUBJECT: Administrative Rules Implementing Senate Bill 1566 (2018)

BACKGROUND

In May 2017, Governor Kate Brown appointed the PERS UAL Task Force to investigate and identify potential funding sources that would provide up to \$5 billion to address PERS' unfunded actuarial liability (UAL). The task force submitted its report to Governor Brown on November 1, 2017. The Governor put forward Senate Bill 1566 (2018), which incorporates some of the recommendations made by the Task Force.

SUMMARY of SENATE BILL 1566

Senate Bill 1566 establishes an Employer Incentive Fund (EIF) to encourage employers to make additional one-time lump sum payments to pay down their UAL by matching either a maximum of 25% of a qualifying lump-sum payment or \$300,000, whichever is lower. The bill directs the PERS Board to establish the qualifications for lump sum payments to be eligible for matching funds from the EIF. Employers must submit the application for the matching fund no later than December 31, 2019, make the qualifying lump-sum payment no later than July 1, 2023, participate in the Unfunded Actuarial Liability Resolution Program as described below, and the qualifying lump-sum payment cannot come from money borrowed by an employer (i.e. pension obligation bonds). The bill provides that EIF matching payments will be made available first to employers with a UAL that is more than 200 percent of payroll. The bill also allows for transfers from the EIF to the Benefits-In-Force reserve under ORS 238.670(2).

For employers that make a lump sum payment under ORS 238.229 that is \$10 million or greater and is not sourced from pension obligation bonds, the PERS Board must allow such employers to pick an amortization period of 6, 10, 16 or 20 years for that payment.

Senate Bill 1566 establishes a School District Employer Rate Pool and defines its revenue sources to include proceeds from excess debt collection, capital gains tax, estate taxes, and proceeds from unclaimed property. This is a new single pooled side account for school district employers.

The bill establishes the Unfunded Actuarial Liability Resolution Program (UALRP) that requires PERS to assist employers with developing plans to improve their funded status and manage their contribution rate changes into the future. Employers are not required to participate in the program, unless they are applying for matching funds from the EIF.

STATUS OF ADMINISTRATIVE RULES for IMPLEMENTATION

For administrative rule purposes, the bill can be broken down into three parts: 1) the Employer Incentive Fund; 2) the pooled side account for school district employers; and 3) the Unfunded Actuarial Liability Resolution Program. PERS staff are working with the Governor's Office and

will engage other stakeholders, including participating employers, as we work through our analysis and development of policy recommendations. Note that we also anticipate potential statutory adjustments or clarifications to SB 1566 during the 2019 Legislative Session.

Employer Incentive Fund (EIF)

The bill requires the Board to adopt rules to implement the EIF and specifies certain requirements for the program to be covered in the rules, such as maximum matching amounts, application and payment deadlines, and participation in the UALRP. According to the bill, the EIF will be held at Treasury, separate from the General Fund and outside of the Public Employees Retirement Fund. Staff have raised a number of policy questions that will be presented with the rules.

Pooled Side Account for School District Employers

The new side account established under SB 1566 for school district employers is a pooled side account. All existing side accounts have been established for individual employers under ORS 238.229. The bill directs the Board to establish rules addressing proportional distributions from the new side account, as well as its amortization and general administration. This new side account will be administered in the same manner as the individual employer side accounts, with modifications as needed to accommodate the nature of multiple employers in one side account. Staff anticipates policy questions with these rules, particularly in the areas with which the bill provides the Board discretion (e.g., proportional distribution and amortization).

Unfunded Actuarial Liability Resolution Program

The bill requires PERS to provide technical expertise to employers regarding their UAL and managing their employer rates. Staff will work with the Governor's Office and stakeholders to develop recommendations regarding the structure and parameters of this new program.

ANTICIPATED ADMINISTRATIVE RULE TIMELINE

Employer Incentive Fund (EIF)

The EIF will require new rules and amendments to our existing employer side account rules. The bill requires PERS to wait until "...the Board determines that there are sufficient moneys in the Employer Incentive Fund" before accepting applications. The bill also requires employers to apply for matching funds under the EIF by December 31, 2019. There is only one funding source that has been identified at this time: Senate Bill 1529 provides that 18 percent of the increase in corporate tax revenue, as defined in Section 31(1) of the bill, be directed to the EIF. However, the date for such distribution is "...on or before July 1, 2021". Staff anticipates notice of the EIF rules at the PERS Board's meeting in October 2018.

Pooled Side Account for School District Employers

The School District Employers side account will require new rules. Funding for this side account may begin in January 2019. Staff anticipates notice of these rules at the PERS Board's meeting in August 2018.

Unfunded Actuarial Liability Resolution Program (UALRP)

The UALRP will require new rules which staff anticipates noticing in October 2018.